IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

ORDER

::

S.B. Sales Tax Revision No. 604/1999

Commercial Taxes Officer, Circle-E, Jaipur

Versus

M/s. Yash Laxmi India (P) Ltd., Jaipur & Anr.

Date of order :: August 20, 2007

PRESENT
HON'BLE DR. JUSTICE VINEET KOTHARI

Mr. R.B. Mathur for the petitioner
Mr. J.N. Sharma for the respondents

BY THE COURT:

1. Though this case comes up today for service of the respondents, Mr. J.N. Sharma who appeared before the Tax Board, present in the court, was directed to accept notices on behalf of the respondent assessee and he puts in appearance.

2. Heard learned counsels for admission of the revision petition.

3. The controversy involved in the present revision petition filed by the Revenue under Section 86 of the RST Act, 1994 appears to be covered by a decision of the Hon'ble Supreme Court in the case of *B.P. Oil Mills Ltd. Vs. Sales Tax Tribunal & Ors.* reported in **(1998) 111 STC 188**, in which case the Hon'ble Supreme Court held that refining of crude oil amounts to a process of manufacture. The relevant extract of the judgment of the Hon'ble Supreme Court is reproduced hereunder for ready reference :-

> *"The definition of "manufacture" in section 2(e-1) of the U.P. Trade Tax Act, 1948, envisages processing. Where any commodity is subjected to a process or treatment with a view to its development or preparation for the market it would amount to processing. Therefore, the nature and extent of the process to which crude oil is subjected to make it refined oil bring the latter within the meaning of the expression "goods manufactured" in section 3(3)(b)(iii) of the Act. A dealer who purchases crude oil paying tax on the purchase thereof and converts it into refined oil is liable to pay tax on the sale of the refined oil."*

4. The Tax Board in the present case allowed the benefit of New Sales Tax Incentive Scheme, 1989 by allowing the appeal of the respondent assessee against the order of the State level Screening

Committee dated 18.03.1998, whereby the assessee was denied the benefit of the said incentive scheme on the ground that the refining of oil cannot be treated as a manufacturing activity. The said order was passed without giving any opportunity of hearing to the respondent assessee and the decision was conveyed to the assessee vide letter dated 21.04.1998 placed on record.

5. Having heard the learned counsels and upon perusal of the record, it appears that the Tax Board was justified in following the earlier view taken by the Tax Board in B.D. Edible Oil Limited dated 11.02.1998, wherein the Tax Board held that the refining of the oil amounts to manufacture and therefore, the assessee was entitled to the benefit of the incentive scheme. Since the said controversy has now been decided by the aforesaid decision of the Hon'ble Supreme Court in the case of *B.P. Oil Mills Ltd.* (supra), the issue is no longer *res integra* and the learned Tax Board cannot be said to have committed any error in allowing the benefit of the incentive scheme on the said ground.

6. Consequently, this revision is found to be devoid of merit and the same is dismissed.

(Dr.VINEET KOTHARI),J.

Pramod
Item No. 1